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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SHAWN JORDAN,

Plaintiff

v.

DAVID J. WAKEFIELD, et al.,

Defendants

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No. 1:CV-00-138
(Judge Caldwell)

FILED
HARRISBURG, PA

JUL 22 2002

MARY E. D'ANDREA, CLERK
Deputy Clerk

DOCUMENTS IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

1. Declaration of Richard Ellers Attachment A
2. Declaration of Daniel Walls Attachment B
3. Declaration of John Symons, M.D. Attachment C
4. Declaration of Robert Kerstetter Attachment D

D. MICHAEL FISHER
Attorney General

By: GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

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717-787-1180

DATE: July 22, 2002

A

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHAWN JORDAN,

Plaintiff

v.

DAVID J. WAKEFIELD, et al.,

Defendants

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**No. 1:CV-00-1387
(Judge Caldwell)**

DECLARATION OF RICHARD ELLERS

I, Richard Ellers, do hereby state under penalty of perjury that the following is true and correct and based upon my personal knowledge:

1. I am employed by the Department of Corrections at the State Correctional Institution at Rockview ("SCI-Rockview") as Health Care Administrator.
2. In that capacity, I have custody of the medical records maintained by the Department of Corrections of prisoners confined at SCI-Rockview.
3. I have reviewed the medical records concerning Shawn Jordan, #BI-8942.
4. My review revealed that Jordan was identified on documents completed upon his reception at SCI-Rockview in January of 1991 as suffering from asthma.
5. Because of his diagnosis, Mr. Jordan is enrolled in the prison's asthma clinic and is seen at the clinic every three months. Jordan's last clinic visit was on June 13, 2002.
6. Mr. Jordan has been prescribed two inhalers to be used by him on an "as needed" basis.
7. The medical records concerning Jordan show the at the time of his visit to the

asthma clinic on June 13, 2002, he reported that he was not using one of his inhalers.

8. Jordan's medical records do not show any complaints of breathing difficulties by Jordan.

9. Entries in Jordan's medical records show that he shows up when he is scheduled to show up for the asthma clinic.

10. Jordan's medical records do not reveal any complaints by Jordan over the past two years which were serious enough to precipitate a sick call visit by him.

11. Jordan's medical records contain no entries by a physician or other medical provider which state or indicate that he was or is in need of a smoke-free environment.

12. Jordan's medical records contain no entries by a physician or other medical provider which state or indicate that his asthma condition was caused by second-hand smoke.

13. Jordan's medical records contain no entries by a physician or other medical provider which state or indicate that he faces an increased risk that his asthma condition will worsen as a result of his exposure to second-hand smoke.

Date: _____

Richard Ellers
Health Care Administrator

B

**IN THE UNITED STATES DISTRICT COURT
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SHAWN JORDAN,

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V.

DAVID J. WAKEFIELD, et al.,

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No. 1:CV-00-1387
(Judge Caldwell)

DECLARATION OF DANIEL WALLS

I, Daniel Walls, do hereby state under penalty of perjury that the following is true and correct and based upon my personal knowledge:

1. I am employed by the Department of Corrections at SCI-Rockview as a Unit Manager in D Building.
2. Shawn Jordan was housed in D Building from December 22, 2001 until his transfer to BB Block in May of 2002. Before December 22, 2001, Jordan was in Administrative Custody and then in the Restricted Housing Unit.
3. Jordan is classified as Z-code which means that he must be single-celled. By single-celled it means that he does not have a cell-mate. Jordan was single-celled the entire time that he was in D Building.
4. The windows in Jordan's cell could be opened manually.
5. For ventilation purposes in the building, there are three large free-standing fans and four very large ceiling fans in operation daily to circulate the air.
6. While Jordan was housed in D Building, I was never told that he had a medical

condition which required his placement in a non-smoking environment.

7. Effective November 1, 2002, prisoners will not be able to smoke or purchase tobacco products at the prison.

Date: _____

Daniel Walls
Unit Manager

7. Based upon his medical records, it cannot be said that Jordan's asthma was caused by his exposure to second-hand smoke.

8. Based upon his medical records, it cannot be said that Jordan has suffered an increased risk that his asthma condition will worsen or that he will suffer a significant medical condition or ailment in the future as a result of his exposure to second-hand smoke.

Date: _____

John Symons, M.D.
Medical Director

**IN THE UNITED STATES DISTRICT COURT
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SHAWN JORDAN,

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**No. 1:CV-00-1387
(Judge Caldwell)**

DECLARATION OF ROBERT KERSTETTER

I, Robert Kerstetter, do hereby state under penalty of perjury that the following is true and correct and based upon my personal knowledge:

1. I am employed by the Pennsylvania Department of Corrections at the State Correctional Institution at Rockview ("SCI-Rockview") as Unit Manager on BB Block. BB Block is the cell block designated for the confinement of prisoners who are participating in the Sex Offenders Program.
2. Shawn Jordan is participating in the Sex Offenders Program and was assigned to BB Block on May 16, 2002 and remains on the block today.
3. Shawn Jordan is assigned to cell #116 which is a single cell on BB Block and has always been housed in a single cell since his transfer to the block. Jordan has no cell-mate and has never had a cell-mate.
4. There are no plans of which I am aware to assign Shawn Jordan to a double cell on BB Block or to assign a cell-mate to him.
5. The windows inside cell #116 are functional and can be opened.

6. Ventilation on BB Block is accomplished by two large floor fans and exhaust fans affixed to the ceiling which are in operation at all times.

7. No smoking is authorized in the common areas in BB Block.

8. Beginning on November 1, 2002, neither smoking nor the purchase of tobacco products by prisoners will be permitted at SCI- Rockview.

Date: _____

Robert Kerstetter
Unit Manager

